

Notice of Allowability

Application No.

10/087,064

Examiner

Anthony J. Green

Applicant(s)

HEMMINGS ET AL.

Art Unit

1755

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the amendment submitted on 3/17/04 and Examiner's Amendment of 3/31/04.
2. ☒ The allowed claim(s) is/are 6-9, 11-17 and 25.
3. ☒ The drawings filed on 02 March 2002 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

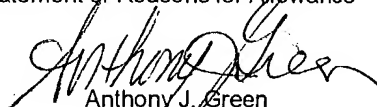
Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____


Anthony J. Green
Primary Examiner
Art Unit: 1755

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Stefan Klauber on 31 March 2004.

The application has been amended as follows:

IN THE SPECIFICATION:

On page 1, immediately after the title the following paragraph has been inserted:

-- Related Applications

This application claims the benefit of U.S. Provisional Application No. 60/273,176, filed March 02, 2001 and 60/329,921, filed October 17, 2001. --

On page 6, line 9, the phrase "as 10 to 30% by weight" has been deleted and replaced with the phrase -- as 5 to 40% by weight --.

IN THE CLAIMS:

In claim 11, line 7, after the term "having" the term "a" has been deleted and replaced with the term -- an --.

In claim 11, line 11, the phrase "powder particles being" has been deleted and replaced with the phrase: -- powder comprising particles --.

In claim 12, lines 2-3 after the term "white" the following phrase has been deleted: " ; said cement having a reflectance of at least 80 on an "Rd" scale measured on a Hunter Lab colorimeter".

Claims 18-24 have been canceled.

In claim 25, line 5, after the term "having" the term "a" has been deleted and replaced with the term - - an - -.

In claim 25, line 9, the phrase "powder particles being" has been deleted and replaced with the phrase: - - powder comprising particles - -.

REASONS FOR ALLOWANCE

2. The following is an examiner's statement of reasons for allowance:

The prior art of record, which is the most pertinent art found, fails to teach and/or fairly suggest the instant invention. The prior art fails to teach a white pozzolan comprising a finely ground vitreous calcium alumino-silicate powder made from waste glass fibers wherein the particles of the powder have a blocky relatively equi-dimensional shape, have an average aspect ratio of less than 2:1, and wherein substantially no residual high aspect ratio fibers are present. Applicant has shown that all of these recitations are critical to the present invention in defining the particles of the powder and is what enables production of highly useful white pozzolan and cementitious materials comprising the white pozzolan from glass previously considered as waste fibers and this is not taught or suggested by the prior art.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably

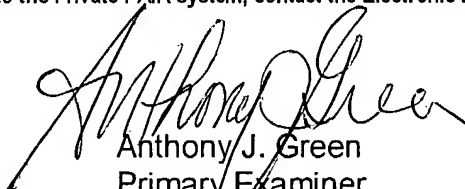
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accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anthony J. Green whose telephone number is 571-272-1367. The examiner can normally be reached on Monday-Thursday 6:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark L. Bell can be reached on 571-272-1362. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Anthony J. Green
Primary Examiner
Art Unit 1755

ajg
31 March 2004